

# House Daily Reader

**Thursday, February 13, 2003**

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# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0324

## SENATE APPROPRIATIONS COMMITTEE ENGROSSED NO. **HB 1011** - 02/07/2003

Introduced by: The Committee on Appropriations at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to transfer funds from the South Dakota-bred racing fund  
2 to the Department of Social Services for domestic and sexual abuse shelter programs and to  
3 make an appropriation therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The Commission on Gaming on or about July 15, 2003, shall transfer two hundred  
6 fifty thousand dollars from the South Dakota-bred racing fund to the Department of Social  
7 Services to provide grants to qualifying contractors according to the provisions of §§ 25-10-26  
8 to 25-10-33, inclusive.

9 Section 2. There is hereby appropriated the sum of two hundred fifty thousand dollars  
10 (\$250,000), of other fund expenditure authority, or so much thereof as may be necessary, to the  
11 Department of Social Services for the expenditure of funds transferred pursuant to section 1 of  
12 this Act.

13 Section 3. The secretary of social services shall approve vouchers and the state auditor shall  
14 draw warrants to pay expenditures authorized by this Act.

15 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by



1 June 30, 2004, shall revert in accordance with § 4-8-21.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

770I0289

## SENATE APPROPRIATIONS COMMITTEE ENGROSSED NO. **HB 1030** - 02/07/2003

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to purchase improved  
2 real property adjacent to the campus of South Dakota State University and to make an  
3 appropriation therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The Board of Regents may purchase improved real property adjacent to the  
6 campus of South Dakota State University at a cost of two hundred eighteen thousand dollars  
7 (\$218,000), the real property being described as follows:

8 The East Eighty (E 80') Feet of Lots One (1), Two (2), and Three (3) in Block One  
9 (1) of Wheaton's Addition to the City of Brookings, County of Brookings, State of South  
10 Dakota, and that portion of the vacated alley abutting and accruing thereto, AND

11 The West Sixty (W 60') Feet of S 1/2 of Lot 8, and the West Sixty (W 60') Feet of  
12 Lots 9-10 and East Ten (E 10') Feet of vacated alley, Wheaton's Addition, City of  
13 Brookings, County of Brookings, State of South Dakota.

14 Section 2. There is hereby appropriated two hundred eighteen thousand dollars (\$218,000)  
15 from the grant and contract indirect recovery and royalty funds for the purpose of purchase of



1 the property described in section 1 of this Act.

2 Section 3. The executive director of the Board of Regents shall approve vouchers and the  
3 state auditor shall draw warrants to pay expenditures authorized by this Act.

4 Section 4. Notwithstanding the provisions of § 13-51-2, neither the educational facilities  
5 fund, nor any money appropriated for statewide maintenance and repair, may be used to finance  
6 the maintenance and repair of the facilities specified in this Act.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

400I0028

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1046** - 02/04/2003

Introduced by: The Committee on Commerce at the request of the Department of Commerce  
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the regulation of cosmetologists and nail  
2 technicians and to provide for the licensure of estheticians.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-15-1 be amended to read as follows:

5 36-15-1. Terms used in this chapter, ~~unless the context otherwise plainly requires,~~ mean:

6 (1) "Apprentice," any person ~~who meets all the qualifications therefor as hereinafter set~~  
7 ~~forth and is so~~ licensed by the state commission to receive education through an  
8 apprenticeship in a salon;

9 (2) "~~Beauty school,~~" any place, premise, or building, ~~whereat or wherein instruction in~~  
10 ~~any or all of the practices of cosmetology is given, but not including a licensed beauty~~  
11 ~~shop or beauty establishment where apprentices are being tutored~~ "Apprentice salon,"  
12 any salon licensed by the commission to teach apprentices;

13 (3) "~~Beauty shop" or "beauty establishment,~~" any place, premise, or building or any part  
14 or portion thereof ~~whereat or wherein any of the practices or arts of cosmetology are~~  
15 ~~performed, except that said terms shall not include a "beauty school"~~ "Booth," any



part within a licensed salon that is rented or leased for the purpose of rendering licensed cosmetology services as a separate, independent salon business;

(4) "Commission," the Cosmetology Commission as established and created in § 36-15-3;

(5) ~~"Cosmetological establishment," or "establishment," any beauty shop, nail shop, or beauty school;~~

~~—(6)—~~ "Cosmetologist" or "cosmetician," any person who, for compensation, engages in any one or any combination or all of the practices of cosmetology;

~~(7)~~(6) "Cosmetology," any one or any combination of all the practices set forth in § 36-15-2;

~~(8)~~(7) "Demonstrator," any person licensed to practice cosmetology in the State of South Dakota or any person who is the holder of a currently valid operator's license or certificate in another state of the United States, who for the purpose of demonstrating the practice of cosmetology performs before groups of students of cosmetology, operators, manager-operators, instructors, shop owners, school owners, or who without fee or charge demonstrates before civic or educational groups, and in so doing incidently engages in the practice of cosmetology as defined in this chapter, nail technology, or esthetics in this state, in another state, or in another country, who demonstrates the various practices of cosmetology, as applicable, in order to inform or educate other licensees or the public;

(8) "Esthetician," any person who, for compensation, engages in the practice of esthetics, but not in other practices of cosmetology;

(9) "Esthetics," any one or any combination of the practices set forth in section 5 of this Act;

(10) "Junior instructor," any person who meets all the qualifications therefor as hereinafter set forth and is so licensed by the commission to instruct in a school under the direct

1 supervision of a senior instructor;

2 ~~—(10) "Manager-nail technician," any person meeting the requirements of this chapter who~~  
3 ~~manages a nail shop or establishment;~~

4 (11) ~~"Manager-operator" or "manager-operator cosmetologist," any person who meets all~~  
5 ~~the qualifications therefor as hereinafter set forth and is so licensed by the commission~~  
6 "Manager," any person licensed by the commission to practice without supervision or  
7 supervise a salon;

8 (12) ~~"Nail shop," any place, premise, or building or any part or portion thereof where nail~~  
9 ~~care is practiced for compensation, but not a beauty shop or beauty school~~ "Nail  
10 technology," any one or any combination of the practices set forth in section 4 of this  
11 Act;

12 (13) ~~"Nail care," the care and beautification of the hands and feet, including filing,~~  
13 ~~trimming, or buffing of the nails, and the application of polish, wrappings, nail~~  
14 ~~extensions, and other materials or substances on the nails;~~

15 ~~—(14) "Nail technician," any person who, for compensation, engages in the practice of nail~~  
16 ~~care~~ technology, but not in other practices of cosmetology;

17 ~~—(15) "Operator" or "operator-cosmetologist," any person who meets the qualifications~~  
18 ~~therefor as hereinafter set forth and is so licensed by the commission;~~

19 (14) "Salon," any place, premise, or building or any part of a building operated for the  
20 purpose of engaging in the practice of cosmetology, nail technology, or esthetics, or  
21 any combination of these practices;

22 (15) "School," any place, premise, or building that is licensed by the commission to provide  
23 education to students in the practice of cosmetology, nail technology, or esthetics, or  
24 any combination of these practices;



(16) "Senior instructor," any person ~~who meets all the qualifications therefor as hereinafter set forth and is so~~ licensed by the commission to instruct in a school;

(17) "Student," any person ~~receiving instruction in a beauty school of cosmetology under the qualifications and conditions as hereinafter set forth in this chapter and so~~ who is licensed by the commission to receive education in a licensed school.

Section 2. That § 36-15-2 be amended to read as follows:

36-15-2. ~~Any~~ No person may engage in the practice of cosmetology unless the person is licensed by the commission. A person is engaged in the practice of cosmetology if that person, who for compensation, a fee, or any valuable consideration, engages in any of the following practices or arts is engaged in the practice of cosmetology with hands, chemicals, or any mechanical or electrical apparatus or appliance for beautifying or cosmetic purposes:

(1) Hair care by styling, wrapping, arranging, braiding, twisting, weaving, extending, fusing, dressing, curling, waving, permanent waving, cleaning, cutting, singeing, cleansing, shampooing, cutting, bleaching, setting, fitting, coloring, straightening, relaxing, fitting, massaging, or similar work upon the hair or, scalp, wigs, or hairpieces of any a person by any means, or who, with hands, mechanical or electrical apparatus, or any other appliances, or by use of cosmetic preparations or antiseptics, engages in the practice or art of massaging, cleansing, manipulating, or performing similar services upon the scalp, face, neck, arms, bust, or shoulders, manicuring the nails, or removing;

(2) Nail technology;

(3) Esthetics; or

(4) Removal of superfluous hair ~~about the body of any person by nonpermanent means.~~

~~Any person practicing cosmetology shall be licensed under this title, while practicing within the~~

scope of that person's license. The following does not constitute the practice of cosmetology:

~~(1) Any person practicing permanent removal of hair by the use of a galvanic or thermalytic needle; or~~

~~(2) Any retailer at a retail establishment who in the ordinary course of business is engaged in the demonstration of make-up if:~~

~~(a) The make-up is applied only with disposable applicators that are discarded after each customer demonstration;~~

~~(b) The demonstration is without charge to the person to whom the demonstration is given; and~~

~~(c) The retailer does not advertise or provide a cosmetological service except the sale of make-up and fragrances.~~

Section 3. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as follows:

None of the following constitute the practice of cosmetology:

(1) Any person practicing permanent removal of hair by the use of a galvanic or thermalytic needle known as electrolysis;

(2) Any retailer at a retail establishment who in the ordinary course of business is engaged in the demonstration of make-up if:

(a) The make-up is applied only with disposable applicators that are discarded after each customer demonstration;

(b) The demonstration is without charge to the person to whom the demonstration is given; and

(c) The retailer does not advertise or provide a cosmetology service except the sale of make-up and fragrances.

Section 4. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as follows:

No person may engage in the practice of nail technology unless the person is licensed by the commission. A person is engaged in the practice of nail technology if that person, for compensation, a fee, or any valuable consideration, engages in any of the following practices with hands, chemicals, or any mechanical or electrical apparatus or appliance for beautifying or cosmetic purposes:

(1) Cutting, filing, trimming, shaping, polishing, coloring, removing polish, tinting, air-brushing, decorating, cleansing, or otherwise beautifying a person's fingernails or toenails;

(2) Applying and removing artificial nails; or

(3) Massaging, cleansing, and exfoliating a person's hands, arms, feet, and legs.

Nail technology does not include hair removal, cutting nail beds, treating corns or calluses, or any medical treatment involving the feet, hands, or nails.

Section 5. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as follows:

No person may engage in the practice of esthetics unless the person is licensed by the commission. A person is engaged in the practice of esthetics if that person, for compensation, a fee, or any valuable consideration, engages in any of the following practices with hands, chemicals, or any mechanical or electrical apparatus or appliance for beautifying or cosmetic purposes:

(1) Beautifying, massaging, cleansing, exfoliating, stimulating, or applying oils, creams, cosmetic preparations, make-up, facial treatments, body treatments, body wraps, antiseptics, scrubs, clays, lotions, masks, waxes, or other preparations for the

noninvasive care of the skin. For purposes of this subdivision, noninvasive means confined to the nonliving cells of the stratum corneum of the epidermis. Such practices shall be in a superficial mode and not for the treatment of medical disorders, and living cells may never be altered, cut, or damaged;

(2) Grooming or applying eyebrows or eyelashes, including arching and tinting; or

(3) Removing superfluous hair by nonpermanent means, including tweezing and waxing.

Esthetics does not include scalp treatments or scalp massage.

Section 6. That § 36-15-4 be amended to read as follows:

36-15-4. All professional members of the ~~Cosmetology Commission must be citizens of this state; must be at least twenty-five years of age; must have a high school education or its equivalent; must be a graduate of a recognized school of cosmetology; must have been actively engaged in the practice of cosmetology for the three years immediately preceding their appointment; and must be currently licensed as cosmetologists in this state at the time of their appointment~~ commission shall be:

(1) A resident of this state;

(2) At least twenty-five years of age;

(3) A high school graduate or its equivalent;

(4) Actively engaged in the practice of cosmetology for the three years immediately preceding the appointment; and

(5) Currently licensed as a cosmetologist in this state at the time of the appointment and while serving on the commission.

No member of the commission ~~shall~~ may be a member of ~~nor~~ or affiliated with or have an interest in any ~~beauty~~ school while in office.

Section 7. That § 36-15-5 be amended to read as follows:

36-15-5. The ~~Cosmetology~~ commission shall organize at its first meeting after ~~August~~ July first of each year by electing from its membership a president, a vice-president, and a secretary-treasurer. The commission shall meet at such times and places as shall be designated by the commission. Any ~~two~~ three members of the commission shall constitute a quorum for the transaction of business.

Section 8. That § 36-15-6 be amended to read as follows:

36-15-6. The commission may, ~~if in its judgment it is necessary and~~ in conformity with chapter 3-6A, employ clerical assistance and any other assistance in performing its general duties ~~in furtherance of this chapter and fix their compensation and prescribe their duties~~ such personnel as it deems necessary to administer and enforce the provisions of this chapter. The commission may ~~also~~ pay the travel and subsistence expenses of such employees pursuant to § 3-9-2 ~~if deemed necessary by the commission~~. However, no ~~such person~~ employee of the commission may be connected or associated in any manner with any school ~~teaching cosmetology~~.

Section 9. That § 36-15-11 be amended to read as follows:

36-15-11. The duties of the members of the commission include ~~inspection of beauty shops, nail shops, beauty;~~

- (1) Inspecting salons, booths, schools, nail technicians, estheticians, and cosmetologists; ~~conducting~~
- (2) Conducting examinations for applicants for licenses under this chapter; ~~investigating;~~
- (3) Approving continuing education courses;
- (4) Investigating violations and enforcing provisions of this chapter and the rules established by the commission pursuant to this chapter; ~~maintaining~~
- (5) Maintaining an office for the keeping of records; and ~~doing~~
- (6) Doing all things necessary for the proper administration of this chapter.

Section 10. That § 36-15-12 be repealed.

~~36-15-12. The Cosmetology Commission may promulgate rules pursuant to chapter 1-26 reasonably necessary for the enforcement of the provisions of this chapter.~~

Section 11. That § 36-15-12.1 be repealed.

~~36-15-12.1. All rules made by the Cosmetology Commission pursuant to this chapter shall be promulgated and amended pursuant to chapter 1-26.~~

Section 12. That § 36-15-13 be amended to read as follows:

36-15-13. The commission may adopt rules pursuant to chapter 1-26 pertaining to the following:

- (1) Application requirements for any license or permit issued pursuant to this chapter;
- (2) Examinations;
- (3) Reports of students' instruction education and work performed;
- (4) Minimum standards and requirements for beauty cosmetology, nail technology, and esthetics salons and schools;
- (5) Minimum standards for plumbing, electrical, physical, and sanitary conditions for the health and safety of persons utilizing ~~cosmetological establishments pursuant to § 36-15-13.1~~ cosmetology, nail technology, or esthetics salons or schools;
- (6) The professional conduct of licensees ~~pursuant to § 36-15-13.1~~;
- (7) The reinstatement of lapsed licenses and lapsed renewal pursuant to § 36-15-20.1;
- (8) ~~Establishing the~~ The fee for a lapsed license and lapsed renewal pursuant to § 36-15-20.1;
- (9) The course and instruction education requirements received by transfer students pursuant to § 36-15-34;
- (10) The textbooks, instructional educational material, and the general course of study for

1 beauty schools and for ~~beauty shops~~ cosmetology salons and nail ~~shops~~ salons having  
2 apprentices pursuant to § 36-15-46;

3 (11) The progress and ~~instruction~~ education received by an apprentice pursuant to  
4 § 36-15-48; and

5 (12) The fees for all licenses, permits, and renewals;

6 (13) Minimum standards for the use of chemicals or any mechanical or electrical apparatus  
7 or appliance;

8 (14) Amount of work experience of an out-of-state licensed applicant that may be used as  
9 a substitute for the education requirement pursuant to §§ 36-15-17, 36-15-17.1, and  
10 section 22 of this Act;

11 (15) Inspection and reinspection of individual licensees, salons, and schools; and

12 (16) Administration and duties of the commission.

13 Section 13. That § 36-15-13.1 be repealed.

14 ~~— 36-15-13.1. The State Cosmetology commission may adopt rules and regulations pertaining~~  
15 ~~to and promoting health and safety of persons utilizing the services of persons or establishments~~  
16 ~~licensed under this chapter including those relating to plumbing, electrical, physical, or sanitary~~  
17 ~~conditions of cosmetological establishments. Such commission may also adopt reasonable rules~~  
18 ~~and regulations pertaining to the professional conduct of any licensee licensed under this chapter.~~

19 Section 14. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as  
20 follows:

21 The commission may adopt rules pursuant to chapter 1-26 pertaining to continuing education  
22 for licensees on health issues, safety issues, and services that require the use of chemicals or  
23 electrical or mechanical apparatus. The commission may provide, by rule promulgated pursuant  
24 to chapter 1-26, the kinds and subjects of education and the number of hours of education

1 required. The commission may also substitute experience in addition to or in lieu of educational  
2 requirements. The commission may waive any of the education requirement in case of certified  
3 illness or undue hardship. The commission may establish a fee by rules adopted pursuant to  
4 chapter 1-26 to cover the cost of verifying the required continuing education. The commission  
5 may offer a course and charge a registration fee to cover the costs.

6 Section 15. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as  
7 follows:

8 Any license or permit issued under this Act or any license issued under prior law may be  
9 renewed for periods of one year, but in any event expiring on the renewal date as established by  
10 the commission. The commission shall, by rule promulgated pursuant to chapter 1-26, establish  
11 the renewal date for any licenses or permits issued under this Act.

12 Section 16. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as  
13 follows:

14 The commission may adopt rules pursuant to chapter 1-26 pertaining to educational  
15 requirements for instructor licenses and the renewal of instructor licenses including the kinds and  
16 subjects of education and the number of hours of education required. The commission may also  
17 substitute experience in addition to or in lieu of educational requirements. The commission may  
18 set a fee through rules adopted pursuant to chapter 1-26 to cover the cost of verifying the  
19 required continuing education. The commission may offer a course and charge a registration fee  
20 to cover the costs.

21 Section 17. That § 36-15-14 be amended to read as follows:

22 36-15-14. The ~~State Cosmetology~~ commission, ~~all any state and or local boards~~ board of  
23 health, or any officer or employee thereof, ~~shall have power and authority to~~ may enter during  
24 the business hours, ~~all establishments~~ any salon or school licensed under the provisions of this



chapter and ~~all any other places place~~ where the ~~art or~~ practice of cosmetology is followed, practiced, or taught for the purpose of inspection and enforcement of this chapter and the rules and regulations adopted pursuant ~~thereto~~ to this chapter.

Section 18. That § 36-15-15 be amended to read as follows:

36-15-15. An applicant for any license or permit ~~and renewal thereof~~ shall first submit evidence, satisfactory to the ~~Cosmetology~~ commission that the applicant:

- (1) ~~That he is~~ Is at least eighteen years of age or older, except as otherwise provided in this chapter;
- (2) ~~That he possesses~~ Possesses a high school education or its equivalent as determined by the ~~State Cosmetology~~ commission; and
- (3) ~~That he has~~ Has complied with all of the rules ~~and regulations~~ adopted by the commission as to the qualifications, standards, and requirements required for such license and application ~~therefor~~.

Section 19. That § 36-15-16 be amended to read as follows:

36-15-16. This chapter ~~shall~~ does not apply to services rendered by regularly licensed physicians ~~or regularly licensed barbers so far as their usual and ordinary vocation is concerned;~~ physician assistants, nurses, podiatrists, chiropractors, physical therapists, occupational therapists, morticians, barbers, or licensed demonstrators when exclusively engaged in the practice of their respective professions.

Section 20. That § 36-15-17 be amended to read as follows:

36-15-17. Any person desiring to practice ~~or follow any or all of the practices of~~ cosmetology in this state as an ~~"operator"~~ a cosmetologist shall make application to the commission to take the examination ~~therein. Such. The~~ application shall ~~contain~~ contain:

- (1) Contain the information required pursuant to § 36-15-15, ~~and~~;

1       (2)   Contain information satisfactory to the commission that ~~such the~~ applicant has  
2           completed twenty-one hundred hours training of education or equivalent credit hours  
3           in an approved and licensed ~~beauty cosmetology~~ school, or in lieu of such ~~training, in~~  
4           a licensed beauty shop, ~~shall have~~ education, has successfully completed a course of  
5           apprenticeship in a licensed cosmetology salon as provided for in this chapter. ~~Such~~  
6           ~~application shall be;~~ and

7       (3)   Be accompanied by the fee required ~~by~~ in this chapter.

8       ~~The above requirements for application for licensure shall not apply to any "operator"~~  
9       ~~licensed on or before July 1, 1971, or who has theretofore been licensed in this state.~~

10      Section 21. That § 36-15-17.1 be amended to read as follows:

11      36-15-17.1. Any person desiring to practice nail ~~care~~ technology in this state as a nail  
12      technician shall apply to the commission to take the nail technician examination. The application  
13      ~~shall contain;~~

14      (1)   Contain the information required by § 36-15-15 ~~and;~~

15      (2)   Contain proof that the applicant has completed four hundred hours of ~~training~~  
16           education or equivalent credit hours in an approved and licensed ~~beauty cosmetology~~  
17           or nail school or, in lieu of such ~~training education,~~ has successfully completed a  
18           course of apprenticeship in a licensed ~~beauty shop cosmetology salon~~ or nail ~~shop~~  
19           salon, as provided in § 36-15-45. ~~The application shall be;~~ and

20      (3)   Be accompanied ~~with~~ by the fee required ~~by~~ in this chapter.

21      Section 22. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as  
22      follows:

23      Any person desiring to practice esthetics in this state as an esthetician shall apply to the  
24      commission to take the esthetics examination. The application shall:

- 1 (1) Contain the information required by § 36-15-15;
- 2 (2) Contain proof that the applicant has completed seven hundred fifty hours of education
- 3 or equivalent credit hours in an approved and licensed cosmetology or esthetics
- 4 school; and
- 5 (3) Be accompanied by the fee required in this chapter.

6 Section 23. That § 36-15-19 be amended to read as follows:

7 36-15-19. The commission shall conduct at least six examinations in the ~~art and~~ practice of  
8 cosmetology ~~and~~, at least two examinations in the practice of nail ~~care~~ technology, and at least  
9 two examinations in the practice of esthetics each year. The commission shall set the times and  
10 places for the conduct of the examination.

11 Section 24. That § 36-15-19.1 be amended to read as follows:

12 36-15-19.1. Each applicant for ~~an "operator's"~~ a cosmetologist license who ~~shall have~~ has  
13 complied with § 36-15-17, shall take ~~an~~ the prescribed examination in the ~~art and~~ practice of  
14 cosmetology ~~before the State Cosmetology Commission as the commission may prescribe. The~~  
15 commission shall determine the contents of the examination. Upon passing ~~such the~~ examination  
16 to the satisfaction of ~~said the~~ the commission and the receipt of the fee required in this chapter, the  
17 applicant shall be licensed as ~~an "operator"~~ a cosmetologist in the ~~art and~~ practice of  
18 cosmetology. Any ~~operator's~~ cosmetologist license issued by the commission pursuant to this  
19 chapter ~~shall expire on the thirty-first day of January, annually, and shall be~~ expires annually on  
20 a date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable  
21 annually.

22 Section 25. That § 36-15-19.2 be amended to read as follows:

23 36-15-19.2. The commission may waive the examination required in § 36-15-19.1 ~~or,~~  
24 36-15-19.3, or in section 28 of this Act upon application made to the commission that the

applicant possesses the qualifications required pursuant to § 36-15-15, and that:

(1) The applicant ~~is of good moral character~~ holds a currently valid license issued by another state, district, or foreign country and the requirements of that state, district, or foreign country at the time of the examination were equal to or not less than those required by this state;

(2) The applicant has passed an examination acceptable to the commission in cosmetology ~~or, nail care~~ technology, or esthetics, as applicable, ~~in the District of Columbia or any state or territory in the United States and is the holder of a currently valid license, certificate, or certificate of registration in cosmetology or nail care issued in that district, state, or territory;~~

(3) ~~The requirements of that district, state, or territory at the time of the examination were not less than those required by this state as a condition precedent to the issuance of the license, certificate, or certificate of registration;~~

~~(4)~~ The applicant ~~comes before any member of the commission for a~~ shall take the prescribed written or oral examination on South Dakota Cosmetology Laws and the examination is approved in writing by the provisions of this chapter and rules adopted pursuant to this chapter. The commission member shall determine the contents of the examination; and

~~(5)~~(4) The application is accompanied ~~with~~ by the fee provided for in this chapter.

Section 26. That § 36-15-19.3 be amended to read as follows:

36-15-19.3. Each applicant for a nail technician license who has complied with § 36-15-17.1 shall take ~~an~~ the prescribed examination ~~before the commission in the art and practice of nail care technology. The commission shall prescribe~~ determine the contents of the examination. If the applicant satisfactorily passes Upon passing the examination, as determined by to the satisfaction

1 ~~of the commission, the commission shall license~~ and the receipt of the fee required in this  
2 chapter, the applicant shall be licensed as a nail technician. Any nail technician license issued by  
3 the commission pursuant to this chapter expires ~~on January thirty-first each year~~ annually on a  
4 date set by the commission in rules promulgated pursuant to chapter 1-26, and is renewable  
5 annually.

6 Section 27. That § 36-15-19.4 be repealed.

7 ~~— 36-15-19.4. Any person licensed by the commission as a nail technician may qualify to be~~  
8 ~~licensed as a manager-nail technician by applying to the commission and submitting evidence~~  
9 ~~satisfactory to the commission that the applicant meets the requirements of § 36-15-15 and has~~  
10 ~~worked at least fifty weeks, with an average of forty hours a week, as a licensed nail technician.~~

11 Section 28. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Each applicant for an esthetician license who has complied with section 22 of this Act shall  
14 take the prescribed examination in the practice of esthetics. The commission shall determine the  
15 contents of the examination. Upon passing the examination to the satisfaction of the commission  
16 and the receipt of the fee required in this chapter, the applicant shall be licensed as an esthetician  
17 in the practice of esthetics. Any esthetician license issued by the commission pursuant to this  
18 chapter expires annually on a date set by the commission in rules promulgated pursuant to  
19 chapter 1-26, and is renewable annually.

20 Section 29. That § 36-15-20 be amended to read as follows:

21 36-15-20. The fees promulgated in rules by the commission pursuant to chapter 1-26 for all  
22 examinations, licenses, permits, and renewals required by this chapter may not exceed the  
23 following maximums:

24 (1) ~~Operator~~ Cosmetologist examination fee, sixty dollars;

- (2) ~~Operator~~ Cosmetologist license fee, fifteen dollars;
- (3) ~~Operator~~ Cosmetologist license renewal fee, fifteen dollars;
- (4) Cosmetologist-manager license fee, fifteen dollars;
- (5) Cosmetologist-manager license renewal fee, fifteen dollars;
- ~~(4)~~(6) Nail technician examination fee, sixty dollars;
- ~~(5)~~(7) Nail technician license fee, fifteen dollars;
- ~~(6)~~(8) Nail technician license renewal fee, fifteen dollars;
- ~~(7)~~ Temporary operator or nail technician license fee, six dollars;
- ~~(8)~~ Manager-operator license fee, fifteen dollars;
- (9) Manager-operator license renewal fee, fifteen dollars;
- ~~(10)~~ Manager-nail technician Nail technician-manager license fee, fifteen dollars;
- ~~(11)~~(10) ~~Manager-nail technician~~ Nail technician-manager license renewal fee, fifteen dollars;
- (11) Esthetician examination fee, eighty dollars;
- (12) Esthetician license fee, twenty-five dollars;
- (13) Esthetician license renewal fee, twenty-five dollars;
- (14) Esthetician-manager license fee, twenty-five dollars;
- (15) Esthetician-manager license renewal fee, twenty-five dollars;
- (16) Temporary cosmetologist, nail technician, or esthetician license fee, six dollars;
- ~~(12)~~(17) Junior instructor license fee, fifteen dollars;
- ~~(13)~~(18) Junior instructor license renewal fee, fifteen dollars;
- ~~(14)~~(19) Senior instructor license fee, fifteen dollars;
- ~~(15)~~(20) Senior instructor license renewal fee, fifteen dollars;
- ~~(16)~~(21) Reciprocity and waiver of examination fee, one hundred dollars;

1     ~~(17)~~(22)     Temporary permit based on reciprocal recognition of another state license, six  
2                     dollars;

3     ~~(18)~~(23)     For endorsement of a certificate issued under this chapter, for a South Dakota  
4                     licensee to obtain reciprocity in another state, or furnishing of other papers to  
5                     another state or school, twenty dollars;

6     ~~(19)~~(24)     Apprentice license fee, twenty-five dollars;

7     (25)   Apprentice salon license fee, two hundred fifty dollars;

8     (26)   Apprentice salon license renewal fee, two hundred fifty dollars;

9     ~~(20)~~(27)     ~~Beauty school~~ School license fee, two hundred fifty dollars;

10    ~~(21)~~(28)     ~~Beauty school~~ School license renewal fee, two hundred fifty dollars;

11    ~~(22)~~(29)     Student license fee, six dollars;

12    ~~(23)~~(30)     ~~Beauty shop~~ Cosmetology salon or booth license fee, sixty dollars;

13    ~~(24)~~(31)     ~~Beauty shop~~ Cosmetology salon or booth license renewal fee, thirty dollars;

14    ~~(25)~~(32)     Nail ~~shop~~ salon or booth license fee, sixty dollars;

15    ~~(26)~~(33)     Nail ~~shop~~ salon or booth license renewal fee, thirty dollars;

16    (34)   Esthetics salon or booth license fee, eighty dollars;

17    (35)   Esthetics salon or booth license renewal fee, thirty dollars;

18    (36)   License duplicate or replacement fee, five dollars.

19     Any license, permit, or renewal fee which is collected by the commission shall be the same  
20     for each respective license, permit, or renewal regardless of the time remaining before the  
21     expiration date.

22     Section 30. That § 36-15-21 be amended to read as follows:

23     36-15-21. Any person licensed by the ~~Cosmetology~~ commission as an ~~"operator"~~ a  
24     cosmetologist may qualify and be licensed by the commission as a ~~"manager-operator"~~

1 cosmetologist-manager upon application made to the commission and submitting evidence  
2 satisfactory to the commission that such applicant possesses the qualifications required pursuant  
3 to § 36-15-15 and has had at least ~~fifty weeks with an average of forty hours per week~~ two  
4 thousand hours of experience as a licensed ~~operator~~ cosmetologist, or has taught in a licensed  
5 and approved ~~beauty~~ school for a period of ~~twelve months~~ two thousand hours, or a combination  
6 of both ~~for twelve different months~~. The application for a manager's license shall be accompanied  
7 by the fee required in this chapter.

8 Section 31. That § 36-15-21.1 be amended to read as follows:

9 36-15-21.1. Any ~~manager-operator or manager-nail technician~~ cosmetologist-manager, nail  
10 technician-manager, or esthetician-manager license issued by the commission pursuant to this  
11 chapter expires ~~on the thirty-first of January each year~~ annually on a date set by the commission  
12 in rule promulgated pursuant to chapter 1-26, and is renewable annually. The application for  
13 renewal shall be accompanied ~~with~~ by the fee required ~~by~~ in this chapter.

14 Section 32. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as  
15 follows:

16 Any person licensed by the commission as a nail technician may qualify to be licensed as a  
17 nail technician-manager by applying to the commission and submitting evidence satisfactory to  
18 the commission that the applicant meets the requirements of § 36-15-15 and has worked at least  
19 two thousand hours as a licensed nail technician or has taught in a licensed and approved school  
20 for a period of two thousand hours, or a combination of both. The application for a manager's  
21 license shall be accompanied by the fee required in this chapter.

22 Section 33. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as  
23 follows:

24 Any person licensed by the commission as an esthetician may qualify to be licensed as a



1 esthetician-manager by applying to the commission and submitting evidence satisfactory to the  
2 commission that the applicant meets the requirements of § 36-15-15 and has worked at least two  
3 thousand hours as a licensed esthetician or has taught in a licensed and approved school for a  
4 period of two thousand hours, or a combination of both. The application for a manager's license  
5 shall be accompanied by the fee required in this chapter.

6 Section 34. That § 36-15-22 be amended to read as follows:

7 36-15-22. Any person who holds a current valid license, ~~certificate, or certificate of~~  
8 ~~registration from another state or territory of the United States or from the District of Columbia~~  
9 ~~as an operator or manager-operator~~ or foreign country in the practices of cosmetology ~~or as a~~  
10 ~~nail technician or manager-nail technician in the practice of nail care,~~ nail technology, or esthetics  
11 may apply to the commission for a temporary permit to practice ~~the art of cosmetology or,~~ nail  
12 ~~care technology, or esthetics,~~ as applicable, pursuant to the provisions of this chapter. The  
13 application shall be accompanied with evidence satisfactory to the commission that the applicant  
14 possesses those qualifications required pursuant to §§ 36-15-15 and ~~that the requirements of that~~  
15 ~~state, territory, or district for licensure are comparable to the requirements of this state for~~  
16 ~~licensure~~ 36-15-19.2. The application shall be accompanied ~~with~~ by the fee required ~~by~~ in this  
17 chapter. A temporary permit is valid until the date of the ~~commission-scheduled~~ next regular  
18 scheduled examination in cosmetology ~~or,~~ nail ~~care~~ technology, or esthetics, as applicable. If the  
19 holder of a temporary permit takes the examination at the scheduled time, the commission shall  
20 extend the temporary permit until the result of the examination is mailed to the applicant. If an  
21 applicant is not excused from the examination by the commission or fails the examination, the  
22 temporary permit is invalid and may not be extended or reissued.

23 Section 35. That § 36-15-25 be amended to read as follows:

24 36-15-25. No person may teach in a school unless that person is licensed by the commission

1 as an instructor. Any person may qualify and be licensed by the commission as a "senior  
2 instructor" for cosmetology, nail technology, or esthetics, as applicable, upon application made  
3 to the commission. The application shall be accompanied by evidence satisfactory to the  
4 ~~commission~~ evidence that ~~such the~~ applicant possesses the qualifications required pursuant to  
5 ~~§ 36-15-15 and that:~~

6 (1) ~~Such applicant has had at least two years experience as a licensed operator~~  
7 ~~cosmetologist or has had one year experience as a "junior instructor"; and Possesses~~  
8 the qualifications required by § 36-15-15;

9 (2) ~~Such applicant currently holds a valid "manager-operator's" license~~ Has had at least  
10 two thousand hours experience as a licensed cosmetologist, nail technician, or  
11 esthetician, as applicable, or as a junior instructor educating in cosmetology, nail  
12 technology, or esthetics, as applicable;

13 (3) Has complied with any instructor education as prescribed by section 16 of this Act;  
14 and

15 (4) Currently holds a valid cosmetologist-manager, nail technician-manager, or  
16 esthetician-manager license, as applicable.

17 ~~—Such applicant must also submit proof satisfactory to the commission that he did attend at~~  
18 ~~least ten hours of commission approved seminars conducted for cosmetology instructors during~~  
19 ~~the twelve months prior to making such application, or, in lieu thereof, such applicant may~~  
20 ~~receive such license conditionally, dependent on securing such ten hours within three months of~~  
21 ~~receiving the same.~~

22 However, the applicant may receive the license conditionally, dependent on completing  
23 instructor education as prescribed by the commission in rules adopted pursuant to chapter 1-26.

24 A senior instructor with a cosmetologist-manager license may instruct in any practice of

1 cosmetology. A senior instructor with a nail technician-manager license may only instruct in the  
2 practice of nail technology. A senior instructor with an esthetician-manager license may only  
3 instruct in the practice of esthetics.

4 Section 36. That § 36-15-25.1 be amended to read as follows:

5 36-15-25.1. Any "senior" instructor license issued by the commission pursuant to this chapter  
6 ~~shall expire on the thirty-first day of January of each year and shall be~~ expires annually on a date  
7 set by the commission in rule promulgated pursuant to chapter 1-26, and is renewable annually.  
8 The application ~~must~~ shall be accompanied by the fee ~~provided for~~ required in this chapter and  
9 proof of completion of any required commission-approved instructor education pursuant to  
10 section 16 of this Act.

11 Section 37. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 Any applicant for a senior instructor license pursuant to § 36-15-25 who plans to instruct an  
14 apprentice in a licensed salon shall submit proof of completion of thirty hours of commission-  
15 approved education in teacher training from a college or university. This education shall be  
16 completed before the senior instructor license is issued. The commission may provide, by rule  
17 promulgated pursuant to chapter 1-26, the kinds and subjects of education and the number of  
18 hours of education required. The commission may also substitute experience in addition to or  
19 in lieu of educational requirements. The commission may set a fee in rules adopted pursuant to  
20 chapter 1-26 to cover the cost of verifying the required continuing education.

21 Section 38. That § 36-15-26 be amended to read as follows:

22 36-15-26. Any person may qualify and be licensed by the commission as a "junior instructor"  
23 for cosmetology, nail technology, or esthetics, as applicable, upon application made to the  
24 commission. The application shall be accompanied by evidence satisfactory to the commission

1 ~~evidence~~ that such applicant ~~possesses the qualifications required pursuant to § 36-15-17 and~~  
2 ~~that:~~

3 (1) ~~Such applicant currently holds a valid "operator's" license; and Possesses the~~  
4 ~~qualifications required by § 36-15-15;~~

5 (2) ~~Currently holds a valid cosmetologist, nail technician, or esthetician license, as~~  
6 ~~applicable;~~

7 (3) ~~Has complied with any instructor education as required by section 16 of this Act; and~~

8 (4) ~~Such applicant will~~ Will be working and ~~giving instructions~~ providing education in a  
9 licensed ~~beauty~~ school in this state under the direct and constant supervision of a  
10 "senior instructor."

11 ~~— Such applicant must also submit proof satisfactory to the commission that he did attend at~~  
12 ~~least ten hours of commission approved seminars conducted for cosmetology instructors during~~  
13 ~~the twelve months prior to making such application, or, in lieu thereof, such applicant may~~  
14 ~~receive such license conditionally, dependent on securing such ten hours within six months of~~  
15 ~~receiving the same.~~

16 However, the applicant may receive the license conditionally, dependent on completing  
17 instructor education as prescribed by the commission in rules adopted pursuant to chapter 1-26.

18 A junior instructor with a cosmetologist license may instruct in any practice of cosmetology  
19 and shall be supervised by a senior cosmetologist instructor. A junior instructor with a nail  
20 technician license may only instruct in the practice of nail technology and shall be supervised by  
21 a senior cosmetologist instructor or a senior nail technician instructor. A junior instructor with  
22 an esthetician license may only instruct in the practice of esthetics and shall be supervised by a  
23 senior cosmetologist instructor or a senior esthetician instructor.

24 Section 39. That § 36-15-26.1 be amended to read as follows:

36-15-26.1. Any "junior" instructor license issued by the commission pursuant to this chapter ~~shall expire on the thirty-first day of January of each year~~ expires annually on a date set by the  
commission in rule promulgated pursuant to chapter 1-26 and shall be is renewable annually. The  
application ~~must~~ shall be accompanied by the fee ~~provided for~~ required in this chapter and proof  
of completing commission-approved instructor education pursuant to section 16 of this Act.

Section 40. That § 36-15-29 be amended to read as follows:

36-15-29. Any person desiring to conduct a ~~beauty~~ cosmetology, nail technology, or  
esthetics school for any of the practices ~~or arts~~ of cosmetology, as applicable, shall apply to the  
commission for a license. ~~If the commission determines, based on evidence submitted with the~~  
~~application, that the beauty school requires of its students a course of training in the practices~~  
~~and arts of cosmetology of not less than twenty-one hundred hours equal to the requirements for~~  
~~examination for an operator license or a course of training in nail care of not less than four~~  
~~hundred hours equal to the requirements for examination for a nail technician license and the~~  
beauty school satisfies the requirements established by rules adopted pursuant to this chapter and  
chapter 1-26, the The commission shall issue the license if:

- (1) The applicant completes the application and provides any required documentation;
- (2) The application is accompanied by the fee required in this chapter;
- (3) The applicant has no violations with another cosmetology board;
- (4) The education offered is not less than twenty-one hundred hours for a cosmetology  
program or not less than four hundred hours for a nail technician program or not less  
than seven hundred fifty hours for an esthetician license or their respective equivalent  
credit hours; and
- (5) All requirements established by rules adopted pursuant to this chapter are met.

Section 41. That § 36-15-29.1 be amended to read as follows:

1        36-15-29.1. The license issued pursuant to § 36-15-29 authorizes the ~~beauty cosmetology,~~  
2        nail technology, or esthetics school holding ~~such~~ a license to transact a school in this state only  
3        on the premises approved by the commission, subject to the rules ~~and regulations~~ of the  
4        commission. ~~Such~~ The license is not ~~assignable~~ transferable to any other person. ~~In the event~~ If  
5        the holder of ~~such~~ the license proposes to conduct a any portion ~~or all~~ of ~~his~~ the school activity  
6        on premises other than those ~~theretofore~~ licensed by the commission, ~~such~~ the licensee shall  
7        obtain an additional license for the newly proposed premises as a ~~beauty~~ school pursuant to  
8        § 36-15-29. However, the commission may approve limited field trips supervised by instructors.

9        Section 42. That § 36-15-29.2 be amended to read as follows:

10       36-15-29.2. No ~~beauty~~ school may employ more than one "junior instructor" for each "senior  
11       instructor" regularly employed by ~~such beauty~~ the school.

12       Section 43. That § 36-15-30 be amended to read as follows:

13       36-15-30. A school license issued pursuant to § 36-15-29 ~~shall expire~~ expires one year from  
14       date of issuance and ~~may be renewed~~ is renewable annually. The renewal application must be  
15       accompanied by the fee required ~~by~~ in this chapter.

16       Section 44. That § 36-15-33 be amended to read as follows:

17       36-15-33. Any person entering or enrolling in a licensed ~~beauty~~ school for training education  
18       in the practice ~~or art~~ of cosmetology ~~or~~, nail ~~care~~ technology, or esthetics shall apply to the  
19       commission for a student license within ten days after the date of enrollment. The applicant for  
20       a student license shall be at least ~~sixteen and one-half~~ seventeen years of age. The application  
21       shall contain the information required pursuant to § 36-15-15 and the name and location of the  
22       ~~beauty~~ school being attended. Upon receipt of the application and the fee provided for in this  
23       chapter, the commission shall issue to the applicant a student license which entitles the student  
24       to complete the course of training education in which the student is enrolled without additional

1 license fees. If the student withdraws from the ~~beauty~~ school or course in cosmetology ~~or~~, nail  
2 ~~care~~ technology, or esthetics for which the fee was paid and later enrolls in the same or a  
3 different ~~beauty~~ school or course, the student shall pay the student license fee again.

4 Section 45. That § 36-15-34 be amended to read as follows:

5 36-15-34. Any person who wishes to transfer from an out-of-state school of cosmetology  
6 to a licensed ~~beauty~~ school in this state for the purpose of meeting the requirements of the state  
7 for commission examination in cosmetology ~~or~~, nail ~~care~~ technology, or esthetics shall apply for  
8 a student license pursuant to § 36-15-33. The commission may adopt rules pursuant to chapter  
9 1-26, establishing requirements relating to courses and ~~instruction~~ education received by such  
10 transfer students. ~~Such transfer~~ Transfer students shall be given South Dakota credit hours for  
11 their out-of-state ~~training~~ education as determined and allowed by the commission.

12 Section 46. That § 36-15-37 be amended to read as follows:

13 36-15-37. No owner, employer, manager, or any other person may conduct simultaneously  
14 a ~~beauty shop or nail shop~~ salon and a ~~beauty~~ school, unless the ~~shop~~ salon is conducted  
15 separately from the ~~beauty~~ school so as not to be construed by the public as one enterprise.

16 Section 47. That § 36-15-38 be amended to read as follows:

17 36-15-38. ~~No beauty~~ Any school shall ~~fail to~~ use the word "school" or words indicating an  
18 institution of learning in any advertisement, sign, display, or directory. ~~Every beauty~~ Each school  
19 shall clearly indicate in a location conspicuous to the general public that cosmetological services  
20 and practices performed in ~~such~~ the school and premises are by students.

21 Section 48. That § 36-15-42 be amended to read as follows:

22 36-15-42. A person may receive apprenticeship education in cosmetology and nail  
23 technology. However, no person may receive apprenticeship education unless that person is  
24 licensed as an apprentice. Any person may apply to the commission to be licensed as an

apprentice if the applicant ~~submits~~;

(1) Submits evidence satisfactory to the commission that the applicant possesses those qualifications, except for age, required pursuant to § 36-15-15 ~~and the beauty shop or nail shop~~;

(2) Is at least seventeen years of age or older; and

(3) The cosmetology or nail salon in which the apprentice will ~~serve and~~ receive ~~instruction~~ education is currently licensed as an apprentice salon and is adequately equipped to teach the profession of cosmetology or nail ~~care~~ technology, as applicable. ~~Any applicant for an apprentice license shall be at least seventeen years of age.~~

Any apprentice license issued pursuant to this chapter is ~~good~~ valid for the full period of the apprenticeship as defined in § 36-15-45 and is not renewable. The application shall be accompanied ~~with~~ by the fee required ~~by~~ in this chapter.

Section 49. That chapter 36-15 be amended by adding thereto a NEW SECTION to read as follows:

No salon may offer apprenticeship education without obtaining an apprentice salon license. The owner of the salon may apply to the commission to be licensed as an apprentice salon if:

- (1) The salon meets the applicable requirements of this chapter and rules promulgated pursuant to this chapter;
- (2) The salon has passed the annual inspection for the current year; and
- (3) The application is accompanied by the fee required in this chapter.

The apprentice salon license is valid for the length of the apprenticeship as stated in § 36-15-45. If the apprenticeship period extends longer than the length of hours in § 36-15-45, as applicable, then the apprentice salon license shall be renewed. The commission may grant an



1 extension of the license for good cause. The commission shall define good cause by rule  
2 promulgated pursuant to chapter 1-26.

3 Section 50. That § 36-15-44 be amended to read as follows:

4 ~~36-15-44. Not more than two apprentices shall be allowed to a beauty shop or beauty~~  
5 ~~establishment at any one period of time. No apprentice salon may have more than two~~  
6 apprentices during any one period of time.

7 Section 51. That § 36-15-45 be amended to read as follows:

8 36-15-45. A licensed apprentice in cosmetology shall receive ~~instruction~~ education in the  
9 practice of cosmetology as required by this chapter in the same ~~licensed beauty shop for eighteen~~  
10 ~~consecutive months~~ cosmetology salon for three thousand consecutive hours. A licensed  
11 apprentice in nail ~~care~~ technology shall receive ~~instruction~~ education in the practice of nail ~~care~~  
12 technology as required by this chapter for ~~six consecutive months~~ nine hundred consecutive  
13 hours in the same ~~licensed beauty shop or nail shop~~ cosmetology salon or nail salon. The  
14 commission may permit an apprentice to transfer to another ~~licensed beauty shop or nail shop~~  
15 cosmetology salon or nail salon, as applicable, for completion of the apprenticeship if the  
16 apprentice applies for the transfer in writing to the commission and shows good cause for the  
17 request. The commission may permit a break in the consecutive period of the apprenticeship if  
18 the apprentice applies for the break in writing to the commission and shows good cause for the  
19 request. The commission shall define good cause by rule promulgated pursuant to chapter 1-26.

20 Section 52. That § 36-15-46 be amended to read as follows:

21 36-15-46. The commission may prescribe textbooks, ~~instructional~~ educational material, and  
22 the general course of study required for ~~beauty schools and for beauty shops and nail shops~~  
23 salons having one or more apprentices. Such textbooks and ~~instructional~~ educational material  
24 ~~must~~ shall be furnished without charge for use by apprentices.

Section 53. That § 36-15-47 be amended to read as follows:

36-15-47. Any apprentice licensed pursuant to this chapter may practice ~~any of the practices~~ of cosmetology if the practice is performed only in a ~~beauty shop or a nail shop~~ cosmetology salon or nail salon, as applicable, licensed pursuant to this chapter; the apprentice is under the constant supervision, control, and direction of a licensed senior instructor at all times; and the apprentice is actually engaged in the study and practice of cosmetology or nail ~~care~~ technology at least forty hours a week.

Section 54. That § 36-15-47.1 be amended to read as follows:

36-15-47.1. Only a "senior instructor" licensed under this chapter may teach ~~or instruct~~ an apprentice in any of the practices of cosmetology. ~~No person shall be entitled to receive such instruction until and unless he shall have been licensed as an "apprentice."~~ The "senior instructor," ~~beauty shop, or establishment,~~ the salon, or anyone connected ~~thereto~~ with the apprenticeship may not charge, receive, or accept any fee or anything of value except services for ~~such instruction~~ the education.

Section 55. That § 36-15-48 be amended to read as follows:

36-15-48. The ~~Cosmetology~~ commission may ~~make~~ adopt reasonable rules ~~and regulations~~ pursuant to chapter 1-26 pertaining to a report on the progress and ~~instruction~~ education received by any apprentice required of the licensed "senior instructor" under whom the apprentice is being supervised.

Section 56. That § 36-15-50 be amended to read as follows:

36-15-50. Any person who successfully completes the term of apprenticeship pursuant to this chapter ~~more than ten days before the time set for a regular commission examination in~~ cosmetology or nail care, as applicable to the apprenticeship, may apply to the commission for a temporary license which will authorize the applicant to perform all the practices of a regularly

1 licensed ~~cosmetology operator~~ cosmetologist or nail technician, as applicable. The temporary  
2 license application shall be accompanied with ~~evidence~~;

3 (1) Evidence satisfactory to the commission that the applicant possesses the qualifications  
4 required pursuant to § 36-15-15 ~~and~~;

5 (2) Evidence satisfactory to the commission that the apprenticeship period has been  
6 completed;

7 (3) The fee for a temporary license as provided in this chapter; and

8 (4) The application and fee for the cosmetologist or nail technician examination, as  
9 applicable.

10 A temporary license issued by the commission is ~~good~~ valid until the date of the next ~~regular~~  
11 ~~commission~~ scheduled examination in cosmetology or nail ~~care~~ technology, as applicable. If the  
12 holder of a temporary license takes the applicable examination at that time, the commission shall  
13 extend the temporary license until the result of the examination is mailed to the person. ~~The~~  
14 ~~application for a temporary license shall be accompanied with the fee required by this chapter for~~  
15 ~~the temporary license and by the examination fee. If a person is not excused from the~~  
16 examination by the commission or fails the examination, the temporary license is invalid and may  
17 not be extended or reissued.

18 Section 57. That § 36-15-50.1 be amended to read as follows:

19 36-15-50.1. Any person who successfully completes a course of ~~training~~ education in an  
20 approved and licensed ~~beauty~~ school in this state, or in any other licensed ~~beauty~~ cosmetology,  
21 nail technology, or esthetics school, as applicable, not located within this state that is shown to  
22 the satisfaction of the commission to be ~~equally~~ comparable, ~~more than ten days before the time~~  
23 ~~set for a regular commission examination in cosmetology or nail care, as applicable to the~~  
24 ~~training~~; may apply to the commission for a temporary license which will authorize the applicant

1 to perform all the practices of a regularly licensed ~~cosmetology operator or cosmetologist~~, nail  
2 technician, or esthetician, as applicable. The application shall ~~contain evidence~~ be accompanied  
3 by:

4 (1) Evidence satisfactory to the commission that the course of ~~training~~ education has been  
5 successfully completed ~~and shall be accompanied with the;~~

6 (2) The fee for a temporary license as provided by in this chapter; and

7 (3) The application shall also be accompanied with the application and fee for an operator  
8 or a cosmetologist, nail technician license, or esthetician examination, as applicable.

9 A temporary license issued by the commission is ~~good~~ valid until the date of the next ~~regular~~  
10 ~~commission~~ scheduled examination in cosmetology ~~or, nail care technology, or esthetics~~, as  
11 applicable. If the holder of a temporary license takes the applicable examination at that time, the  
12 commission shall extend the temporary license until the result of the examination is mailed to the  
13 person. If a person is not excused from the examination by the commission or fails the  
14 examination, the temporary license is invalid and may not be extended or reissued.

15 Section 58. That § 36-15-51 be amended to read as follows:

16 36-15-51. No person may operate a salon or booth without a license. Any person who  
17 desires to operate a ~~beauty shop~~ salon or booth where ~~all of the arts of;~~

18 (1) All of the practices of cosmetology are practiced ~~provided~~ shall apply to the  
19 commission for a ~~general beauty shop~~ cosmetology salon or booth license. ~~Any person~~  
20 ~~who desires to operate a beauty shop where the practice of cosmetology, as~~  
21 applicable;

22 (2) Only nail technology is practiced, shall apply to the commission for a nail salon or  
23 booth license, as applicable;

24 (3) Only esthetics is practiced, shall apply to the commission for an esthetics salon or

1           booth license, as applicable;

2           (4)   Cosmetology is limited to one or a few of the ~~arts practices~~ specified in § 36-15-2,  
3           shall apply to the commission for a limited ~~beauty shop~~ salon or booth license. The  
4           application for a limited license shall state the ~~arts practices~~ of cosmetology desired  
5           to be ~~practiced provided~~. ~~Any person who desires to operate a nail shop where only~~  
6           ~~nail care is practiced shall apply to the commission for a nail shop license.~~

7           The application fee set pursuant to § 36-15-20 shall accompany the application. ~~All beauty~~  
8           ~~shop and nail shop licenses expire on January thirty-first each year~~ shall be accompanied by the  
9           license fee provided for in this chapter. Any salon or booth license expires annually on a date set  
10          by the commission in rule promulgated pursuant to chapter 1-26, and ~~are~~ is renewable annually.  
11          ~~Operation of a beauty shop or a nail shop without a license is a petty offense. The practice of~~  
12          ~~cosmetology beyond the limits specified in the license is a petty offense. No person may practice~~  
13          ~~cosmetology, nail technology, or esthetics beyond the limits specified in the license. A violation~~  
14          of this section is a Class 2 misdemeanor.

15          Section 59. That § 36-15-51.1 be amended to read as follows:

16          36-15-51.1. If a ~~beauty shop or nail shop~~ salon or booth changes location or ownership, the  
17          owner or manager of the ~~shop~~ salon or booth shall apply to the commission for a new license  
18          pursuant to § 36-15-51. The application shall be accompanied ~~with~~ by the license fee provided  
19          for ~~by~~ in this chapter. The commission may issue a temporary permit to the applicant which is  
20          valid for ninety days. During that time, the commission shall inspect the premises. The owner or  
21          manager of a ~~beauty shop or nail shop~~ salon or booth that changes location or ownership or is  
22          closed shall immediately notify the commission of that fact.

23          Section 60. That § 36-15-53.1 be amended to read as follows:

24          36-15-53.1. A ~~beauty shop~~ cosmetology salon or booth shall be ~~at all times~~ under the

1 supervision of a person who holds a currently valid ~~manager-operator~~ cosmetologist-manager  
2 license. A nail ~~shop~~ salon or booth shall be ~~at all times~~ under the supervision of a person who  
3 holds a currently valid ~~manager-operator or manager-nail technician~~ cosmetologist-manager or  
4 nail technician-manager license. ~~It is a petty offense for a beauty shop or nail shop or its owner~~  
5 ~~to offer or render any of the practices of cosmetology to the public unless the shop has a licensed~~  
6 ~~manager-operator or manager-nail technician, as applicable, present in the shop.~~ An esthetics  
7 salon or booth shall be under the supervision of a person who holds a currently valid  
8 cosmetologist-manager or esthetician-manager license. A licensed cosmetologist-manager or nail  
9 technician-manager or esthetician-manager, as applicable, shall be present in the salon when any  
10 of the practices of cosmetology are offered or rendered to the public. A violation of this section  
11 is a Class 2 misdemeanor.

12 Section 61. That § 36-15-54 be amended to read as follows:

13 36-15-54. ~~Only demonstrators~~ Cosmetology, nail technology, and esthetics may only be  
14 practiced in a licensed salon or booth, except as provided in this section. A demonstrator, while  
15 demonstrating under the provisions of this chapter may practice any of the arts of cosmetology  
16 for compensation, fee, or any other remuneration outside of the premises of a licensed beauty  
17 shop or a licensed nail shop unless the person desiring any or all of the cosmetological services  
18 is unable to come to the beauty shop or nail shop because of sickness or other disability salon.  
19 In addition, a licensee may practice cosmetology services on persons unable to come to the salon  
20 because of imprisonment, disabling sickness, or other disability as long as the licensee documents  
21 the service through a salon or booth. A licensed nursing facility that permits cosmetology  
22 services only to its residents and does not advertise as a salon is not required to have a salon  
23 license.

24 Section 62. That § 36-15-55.1 be repealed.

~~36-15-55.1. A violation of any provision of this chapter or of the rules and regulations adopted pursuant thereto by the commission is a ground for disciplinary action by the commission.~~

Section 63. That § 36-15-56 be amended to read as follows:

36-15-56. The grounds for disciplinary action are as follows, but not limited thereto:

- (1) Fraud or deception in procuring a license required by this chapter;
- (2) Failure of any person to comply with any of the requirements of this chapter or rules and regulations adopted pursuant thereto to this chapter;
- (3) Publication or use of any untruthful or improper statement or representation, with a view of deceiving the public, or any patron or customer in connection with the practice or ~~instruction~~ education in cosmetology;
- (4) ~~Habits of intemperance, Habitual drunkenness or drug addiction, calculated in the opinion of the commission to affect~~ affecting the licensee's practice of ~~his~~ the profession, or conviction of a violation of any federal or state law relating to narcotic drugs;
- (5) Failure to furnish to the commission, any report or information which is required by this chapter or rules and regulations adopted pursuant thereto to this chapter;
- (6) The employment of any unlicensed person to perform work which under this chapter can lawfully be done only by licensed persons ~~licensed therein~~;
- (7) Failure to publicly display any license required by this chapter;
- (8) Willfully making any false oath or affirmation whenever any oath or affirmation is required in this chapter or by rules and regulations adopted pursuant thereto to this chapter;
- (9) Conviction of ~~any crime or charge involving moral turpitude, in which case a record~~

1 ~~of conviction or a certified copy shall be conclusive evidence thereof~~ a felony affecting  
2 the licensee's practice of the profession, as shown by a certified copy of the record of  
3 the court of conviction;

4 (10) Continued practice by persons knowingly having an infectious or contagious disease;  
5 and

6 (11) Practice of any cosmetology services for which the commission requires additional  
7 continuing education when the education has not been completed.

8 ~~— It is not intended that the above enumerated grounds are exclusive of all violations, but that~~  
9 ~~any requirement of this chapter or rules and regulations adopted pursuant thereto which are not~~  
10 ~~followed or are violated are grounds for refusal, suspension and revocation of a license.~~

11 Section 64. That § 36-15-58.5 be amended to read as follows:

12 36-15-58.5. ~~Upon written application establishing compliance with existing licensing~~  
13 ~~requirements and for reasons the commission deems sufficient, the commission, for good cause~~  
14 ~~shown, by~~ By majority vote, may, under such conditions as it the commission may impose,  
15 reinstate or reissue a suspended or revoked license to any person whose license has been  
16 suspended or revoked, provided, however, that upon suspension of a license, the commission in  
17 such order may provide for automatic reinstatement thereof after a fixed period of time as  
18 provided in the order upon:

19 (1) Written application establishing compliance with existing licensing requirements; or

20 (2) Testimony by witnesses.

21 The commission may impose conditions for the reinstatement of a license. One of the  
22 conditions may provide for an automatic reinstatement of the license after a fixed period of time.

23 Section 65. That § 36-15-60 be amended to read as follows:

24 36-15-60. ~~The commission of any of the following acts is a petty offense~~ No person may:



- 1       (1)   ~~The practice of~~ Practice cosmetology without a license;
- 2       (2)   Intentionally ~~making~~ make any false oath or affirmation whenever an oath or  
3           affirmation is required by this chapter or rules promulgated ~~pursuant thereto to this~~  
4           chapter;
- 5       (3)   ~~Failure~~ Fail to display ~~all licenses~~ any license in a conspicuous place in the ~~beauty~~  
6           ~~shop, beauty establishment, or beauty~~ salon, booth, or school;
- 7       (4)   ~~Failure~~ Fail to comply with the plumbing, electrical, physical, or sanitary requirements  
8           as stated in the rules promulgated by the ~~Cosmetology~~ commission;
- 9       (5)   ~~Charging or receiving~~ Charge or receive compensation for teaching an apprentice ~~the~~  
10          ~~art or arts~~ any of the practices of cosmetology;
- 11       (6)   ~~Operating a beauty~~ Operate a school without a license as provided for in this chapter;
- 12       (7)   ~~Employment of~~ Employ or allow any unlicensed person to perform work which under  
13          this chapter ~~can~~ may lawfully be done only by licensed persons ~~licensed therein~~;
- 14       (8)   ~~Allowing~~ Allow the practice of ~~cosmetology~~;
  - 15           (a)   ~~Cosmetology~~ by ~~an operator~~ a cosmetologist except under the immediate and  
16                  constant supervision and direction of a licensed ~~manager-operator~~  
17                  cosmetologist-manager; or
  - 18           (b)   Nail technology by a nail technician except under the immediate and constant  
19                  supervision and direction of a licensed ~~manager-operator~~ cosmetologist-  
20                  manager or a licensed ~~managing nail technician~~ technician-manager; or
  - 21           (c)   Esthetics by an esthetician except under the immediate and constant  
22                  supervision and direction of a licensed cosmetologist-manager or a licensed  
23                  esthetician-manager;
- 24       (9)   ~~Operating a beauty shop, nail shop, or beauty~~ Operate a salon, booth, or school for

1           any ~~or all~~ of the ~~arts~~ practices of cosmetology without having first obtained the  
2           applicable license as provided in this chapter; ~~and~~

3       (10) ~~Doing~~ Practice any cosmetology services for which the commission requires  
4           additional continuing education in which the education has not been completed; and

5       (11) Do any act prohibited by this chapter.

6       A violation of this section is a Class 2 misdemeanor.

7       Section 66. That § 36-15-61 be amended to read as follows:

8       36-15-61. ~~Any citizen~~ The commission or any resident of this state may bring an action in  
9       circuit court for an injunction to ~~restrain~~:

10      (1)   Restrain any person or corporation from the practice of or ~~instruction~~ education in  
11           cosmetology ~~or~~ without a valid license;

12      (2)   Restrain the ~~operating operation~~ of any ~~establishment licensed hereunder~~ salon or  
13           school without a valid license ~~or to restrain~~;

14      (3)   Restrain the violation of any of the provisions or requirements of this chapter or rules  
15           and regulations adopted pursuant ~~thereto~~ to this chapter.

16       The ~~Cosmetology~~ commission ~~may bring an action for such injunctive relief and is authorized~~  
17       to may employ counsel; ~~subject to the supervision, control and direction of the attorney general,~~  
18       and to expend moneys from its treasury for such purposes. ~~An action for injunction shall be an~~  
19       alternate to criminal proceedings, and the commencement of one proceeding by the commission  
20       constitutes an election.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

391I0259

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1057** - 02/07/2003

Introduced by: Representatives Madsen, Cutler, Gillespie, McCaulley, O'Brien, Peterson (Bill), and Peterson (Jim) and Senators Diedrich (Larry) and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide victims of crimes the right to copies of certain  
2 law enforcement reports.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-28C-1 be amended to read as follows:

5 23A-28C-1. Consistent with § 23A-28C-4, victims of the crime, including victims of driving  
6 under the influence vehicle accidents, have the following rights:

7 (1) ~~Notification~~ To be notified of scheduled bail hearings and release from custody,  
8 ~~notification~~ to be notified by the prosecutor's office when the case is received and to  
9 whom the case is assigned, and ~~notification~~ to be notified in advance of the date of  
10 preliminary hearing and trial;

11 (2) To be informed of what the charges mean and the elements necessary for conviction;

12 (3) To testify at scheduled bail or bond hearings regarding any evidence indicating  
13 whether the offender represents a danger to the victim or the community if released;

14 (4) ~~Protection~~ To be protected from intimidation by the defendant, including enforcement  
15 of orders of protection;



- 1 (5) To offer written input into whether plea bargaining or sentencing bargaining  
2 agreements should be entered into;
- 3 (6) To be present during all scheduled phases of the trial or hearings, except where  
4 otherwise ordered by the judge hearing the case or by contrary policy of the presiding  
5 circuit judge;
- 6 (7) To be prepared as a witness, including information about basic rules of evidence,  
7 cross-examination, objections, and hearsay;
- 8 (8) To provide to the court a written or oral victim impact statement prior to sentencing  
9 regarding the financial and emotional impact of the crime on the victim and his or her  
10 family as well as recommendations for restitution and sentencing and § 23A-28-8  
11 notwithstanding, the right to appear at any hearing during which a change in the plan  
12 of restitution is to be considered;
- 13 (9) ~~Restitution~~ To receive restitution, whether the convicted criminal is probated or  
14 incarcerated, unless the court or parole board provides to the victim on the record  
15 specific reasons for choosing not to require it;
- 16 (10) To provide written input at parole hearings or with respect to commutations of  
17 sentences by the Governor, should those options be considered;
- 18 (11) In a case in which the death penalty may be authorized, to provide to the court or to  
19 the jury, as appropriate, testimony about the victim and the impact of the crime on the  
20 victim's family; ~~and~~
- 21 (12) ~~Notification~~ To be notified of the defendant's release from custody, which notice  
22 includes:
  - 23 (a) Notice of the defendant's escape from custody and return to custody following  
24 escape;

1 (b) Notice of any other release from custody, including placement in an intensive  
2 supervision program or other alternative disposition, and any associated  
3 conditions of release;

4 (c) Notice of parole; and

5 (d) Notice of pending release of an inmate due to expiration of sentence;

6 (13) ~~Notification~~ To be notified of the victim's right to request testing for infection by  
7 blood-borne pathogens pursuant to § 23A-35B-2; and

8 (14) To be provided a copy of any report of law enforcement that is related to the crime,  
9 at the discretion of the state's attorney, or upon motion and order of the court.

10 However, no victim may be given the criminal history of any defendant or any  
11 witness.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

228I0115

## HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1103** - 02/11/2003

Introduced by: Representatives Wick, Adelstein, Begalka, Bradford, Cutler, Elliott, Glenski, Haverly, Heineman, Hennies, Juhnke, Lange, McCoy, Olson (Mel), Schafer, Smidt, Teupel, Thompson, and Weems and Senators Moore, Diedrich (Larry), Ham, Jaspers, Kleven, Koetzle, Olson (Ed), Reedy, Schoenbeck, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to provide for a refund of tuition for certain teachers.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Eligible teacher," a teacher who teaches in a public or nonpublic school and in a  
5 subject area of critical need as determined by the Department of Education and

6 Cultural Affairs, and whose first year of teaching is after the 2002-2003 school year;

7 (2) "Postsecondary tuition," the lesser of five thousand dollars or actual qualified higher  
8 education expenses as defined in subdivision 13-63-1(13) paid by the eligible teacher;

9 (3) "Secretary," the secretary of the Department of Education and Cultural Affairs.

10 Section 2. There is hereby created in the state treasury the South Dakota teacher tuition  
11 reimbursement fund into which shall be deposited any appropriations, private donations, grants,  
12 federal funds, and other funds provided to the Department of Education and Cultural Affairs for  
13 tuition reimbursements to teachers. Any interest earned on the money in the fund shall be



1 deposited in the fund.

2       Section 3. Notwithstanding the provisions of § 4-7-39, at the end of each fiscal year, the  
3 secretary shall transfer twenty-five percent of any money, not to exceed one million dollars, that  
4 has been appropriated for state aid to general education or state aid to special education that has  
5 not been spent or legally obligated to the teacher tuition reimbursement fund. No money may be  
6 transferred to the teacher tuition reimbursement fund if the amount in the fund is two million five  
7 hundred thousand dollars or more.

8       Section 4. A school district may solicit and accept funds from private entities or individuals  
9 for the teacher tuition reimbursement fund. Any funds solicited by a particular school district may  
10 only be used to reimburse eligible teachers in the school district.

11       Section 5. An eligible teacher shall receive a reimbursement equal to seventy-five percent of  
12 the teacher's first year's postsecondary tuition if the teacher has taught in South Dakota for three  
13 consecutive years following graduation from an accredited college or university.

14       Section 6. An eligible teacher shall receive a reimbursement equal to seventy-five percent of  
15 the teacher's second year's postsecondary tuition if the teacher has taught in South Dakota for  
16 five consecutive years following graduation from an accredited college or university.

17       Section 7. An eligible teacher shall receive a reimbursement equal to seventy-five percent of  
18 the teacher's third year's postsecondary tuition if the teacher has taught in South Dakota for  
19 seven consecutive years following graduation from an accredited college or university.

20       Section 8. An eligible teacher shall receive a reimbursement equal to seventy-five percent of  
21 the teacher's fourth year's postsecondary tuition if the teacher has taught in South Dakota for  
22 nine consecutive years following graduation from an accredited college or university.

23       Section 9. An eligible teacher shall receive an additional reimbursement equal to the  
24 remaining twenty-five percent of the teacher's first four year's postsecondary tuition if the teacher

1 has taught in South Dakota for ten consecutive years following graduation from an accredited  
2 college or university.

3 Section 10. The Department of Education and Cultural Affairs shall pay eligible teachers their  
4 tuition reimbursement out of any money in the teacher tuition reimbursement fund or a  
5 proportion of those funds available.

6 Section 11. The Department of Education and Cultural Affairs shall promulgate rules  
7 pursuant to chapter 1-26 to identify or to establish criteria for identifying subject areas of critical  
8 need and other eligibility criteria for teachers to receive reimbursement pursuant to this Act. The  
9 rules shall also specify procedures for teachers to apply for tuition reimbursement and procedures  
10 for disbursement of reimbursement funds.



# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

481I0634

## HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB 1128** - 02/11/2003

Introduced by: Representatives Solum and Smidt and Senators Sutton (Dan) and Abdallah

1 FOR AN ACT ENTITLED, An Act to revise the requirements for notice of nonrenewal for  
2 surety insurance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-1-14 be amended to read as follows:

5 58-1-14. Notice of refusal to renew an insurance policy as defined in §§ 58-9-5 to 58-9-30,  
6 inclusive, 58-9-32 and 58-9-33, ~~inclusive~~, is not effective unless mailed or delivered by the  
7 insurer to the named insured at least sixty days before the effective renewal date. The policy  
8 provisions control if the policy provides for a notice of refusal to renew that exceeds sixty days.  
9 This section does not apply to the cancellation and nonrenewal of automobile policies or  
10 coverages as defined in § 58-11-45 or to a policy of homeowner's insurance. This section also  
11 does not apply to any other personal lines policy. A notice of refusal to renew any other personal  
12 lines policy is not effective unless mailed or delivered by the insurer to the named insured at least  
13 thirty days before the effective renewal date. A notice of nonrenewal is not required if the  
14 policyholder is transferred to an insurer that is a member of the same insurance group as the  
15 previous insurer and notice of such transfer is given in the form adopted by rule by the Division



1 of Insurance pursuant to chapter 1-26.

2 Section 2. That chapter 58-1 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Notice of refusal to renew an insurance policy as defined in § 58-9-31 is not effective unless  
5 mailed or delivered by the insurer to the named insured at least thirty days before the effective  
6 renewal date. The policy provisions control if the policy provides for a notice of refusal to renew  
7 that exceeds thirty days.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

174I0568

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1170** -

02/11/2003

Introduced by: Representatives Adelstein, Davis, Deadrick (Thomas), Hargens, and Lintz and  
Senators Diedrich (Larry), Duenwald, Jaspers, Nachtigal, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise certain administrative rules related to reports by  
2 pesticide applicators.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That ARSD 12:56:07:05 be amended to read as follows:

5 12:56:07:05. ~~Each commercial applicator shall, upon written request,~~ The department may  
6 require any commercial applicator, not more than once in any five-year period, to furnish the  
7 department with ~~an annual~~ a summary for the preceding year, which shall include the following  
8 information by county: crop, site, or commodity treated, pest treated, trade or brand name and  
9 common name of pesticide applied, the percent of or pounds of active ingredient per gallon, and  
10 total volume used. The secretary of agriculture may require the information to be submitted more  
11 often than once every five-year period if circumstances require that such data are needed to  
12 protect the health and well-being of the citizens of South Dakota.

13 All summaries and the information therein submitted to the department shall be held in  
14 confidence unless that information is used by the department to compile an area or state-wide



1 report of usage of pesticides by commercial applicators or is subpoenaed by a court of law.

2 The department ~~shall~~ may not issue a renewed license or allow a certification to be renewed

3 if the commercial applicator applying for such a license or certification has not submitted the

4 requested summary for the preceding year.

# State of South Dakota

SEVENTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2003

367I0643

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1180** - 02/11/2003

Introduced by: Representatives Peterson (Bill) and Bartling and Senators Dempster, Knudson, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to repeal the effective date for the sunseting of certain  
2 provisions related to insurance taxes and to revise certain provisions related to policies  
3 having cash surrender values exceeding one million dollars.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That section 8 of chapter 54 of the 2001 Session Laws be repealed.

6 ~~Section 8. The amendments in section 1 of this Act are repealed on July 1, 2002.~~

7 Section 2. That chapter 60 of the 2002 Session Laws be repealed.

8 ~~Section 1. That section 8 of chapter 54 of the 2001 Session Laws be amended to read as~~  
9 ~~follows:~~

10 ~~—Section 8. The amendments in section 1 of this Act are repealed on July 1, 2002.~~

11 Section 3. That § 58-15-17 be amended to read as follows:

12 58-15-17. In the case of policies issued on or after the operative date specified in § 58-15-42,  
13 the loan value referred to in § 58-15-15 shall be the cash surrender value at the end of the current  
14 policy year as required by § 58-15-33. The policy shall reserve to the insurer the right to defer  
15 the granting of a loan, other than for the payment of any premium to the insurer, for six months



1 after application therefor. For policies where the cash surrender value pursuant to § 58-15-33  
2 is in excess of one million dollars, the loan value shall be equal to the portion of the cash  
3 surrender value that can immediately be converted to cash, pursuant to the policyholder's  
4 consent. ~~The consent of the policyholder shall be on a form prescribed by the director in rules~~  
5 ~~promulgated pursuant to chapter 1-26.~~

6 Section 4. That § 58-15-26 be amended to read as follows:

7 58-15-26. There shall be a provision that when a policy becomes a claim by the death of the  
8 insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option,  
9 surrender of the policy or proof of the interest of the claimant, or both. If an insurer shall specify  
10 a particular period prior to the expiration of which settlement shall be made, such period may not  
11 exceed two months from the receipt of such proof. For policies where the cash surrender value  
12 pursuant to § 58-15-33 is in excess of one million dollars at the date of death, settlement may  
13 be made in cash or, if allowed under the policy, by distributing assets of the separate account to  
14 the claimant with the consent of the policyholder. ~~The consent of the policyholder shall be on a~~  
15 ~~form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~

16 Section 5. That § 58-15-26.2 be amended to read as follows:

17 58-15-26.2. Interest payable pursuant to § 58-15-26.1 shall be computed from the date of  
18 death of the insured until the date of payment and shall be at the rate of four percent per annum  
19 or not less than the current rate of interest on death proceeds left on deposit with the insurer  
20 under an interest settlement option, whichever rate is greater. For policies where the cash  
21 surrender value pursuant to § 58-15-33 is in excess of one million dollars at the date of death,  
22 and with the consent of the policyholder, the interest shall be computed commencing the latter  
23 of sixty days succeeding the date of death of the insured or the date proof of death has been  
24 received by the insurer in good order until the date of payment. ~~The consent of the policyholder~~

1 ~~shall be on a form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~

2 Section 6. That § 58-15-33 be amended to read as follows:

3 58-15-33. Any cash surrender value available under the policy in the event of default in a  
4 premium payment due on any policy anniversary, whether or not required by § 58-15-31 shall  
5 be an amount not less than the excess, if any, of the present value on such anniversary, of the  
6 future guaranteed benefits which would have been provided for by the policy, including any  
7 existing paid-up additions, if there had been no default, over the sum of the then present value  
8 of the adjusted premiums as defined in §§ 58-15-35 to 58-15-38, inclusive, and §§ 58-15-43.1  
9 to 58-15-43.11, inclusive, corresponding to premiums which would have fallen due on and after  
10 such anniversary, and the amount of any indebtedness to the insurer on the policy. Any cash  
11 surrender value available within thirty days after any policy anniversary under any policy paid up  
12 by completion of all premium payments or any policy continued under any paid-up nonforfeiture  
13 benefit, whether or not required by § 58-15-31, shall be an amount not less than the present  
14 value, on such anniversary, of the future guaranteed benefits provided for by the policy, including  
15 any existing paid-up additions, decreased by any indebtedness to the insurer on the policy.

16 However, for any policy issued on or after the operative date of §§ 58-15-43.1 to  
17 58-15-43.11, inclusive, which provides supplemental life insurance or annuity benefits at the  
18 option of the insured and for an identifiable additional premium by rider or supplemental policy  
19 provision, the cash surrender value referred to in the first paragraph of this section shall be an  
20 amount not less than the sum of the cash surrender value as defined in that paragraph for an  
21 otherwise similar policy issued at the same age without a rider or supplemental policy provision  
22 and the cash surrender value as defined in that paragraph for a policy which provides only the  
23 benefits otherwise provided by a rider or supplemental policy provision.

24 Further, for any family policy issued on or after the operative date of §§ 58-15-43.1 to

1 58-15-43.11, inclusive, which defines a primary insured and provides term insurance on the life  
2 of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash  
3 surrender value referred to in the first paragraph of this section shall be an amount not less than  
4 the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy  
5 issued at the same age without term insurance on the life of the spouse and the cash surrender  
6 value as defined in that paragraph for a policy which provides only the benefits otherwise  
7 provided by term insurance on the life of the spouse.

8 Any cash surrender value available within thirty days after any policy anniversary under any  
9 policy paid-up by completion of all premium payments or any policy continued under any paid-up  
10 nonforfeiture benefit, whether or not required by § 58-15-31, shall be an amount not less than  
11 the present value, on such anniversary of the future guaranteed benefits provided for by the  
12 policy, including any existing paid-up additions, decreased by any indebtedness to the insurer on  
13 the policy.

14 If the cash surrender value is in excess of one million dollars, the term, cash surrender value,  
15 may include payment of assets to the policyholder as well as payment of cash, if allowed under  
16 the policy, with the consent of the policyholder. ~~The consent of the policyholder shall be on a~~  
17 ~~form prescribed by the director in rules promulgated pursuant to chapter 1-26.~~